



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE SECRETARY

September 15, 2006

Honorable Felix P. P. Camacho
Governor of Guam
Office of the Governor
Executive Chamber
Agana, GU 96932

Mr. Luis S. N. Reyes
Superintendent
Guam Public School System
P. O. Box DE
Hagatna, GU 96932

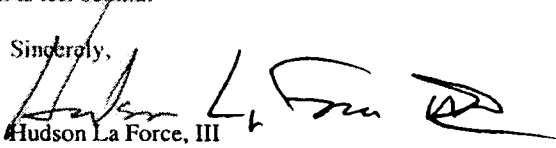
Dear Governor Camacho and Superintendent Reyes:

During the past several months, we have been in regular contact with various members of the Guam government to communicate our concerns about instability in the Guam Public School System (GPSS), which affected the management of certain Federal education grant funds provided to GPSS. GPSS had previously been designated as a "high risk" grantee under 34 C.F.R. 80.12, based on past problems in the areas of Single Audit Act compliance and fiscal accountability. The problems of management have arisen during this year. Recently, there has been a demonstration of positive steps toward addressing these issues and increasing stability. We appreciate the efforts and actions taken by the Guam government to address the concerns described in my June 2 letter, including the selection and installation of a new, permanent GPSS Superintendent; and a clarification of the manner in which Federal education grants will be administered within GPSS. We are now in a position to move forward with the awarding of FY 2006 grants to GPSS.

In conjunction with GPSS' continuing "high risk" designation under 34 C.F.R. § 80.12, special conditions will continue to apply to FY 2006 program grants and funds awarded by the Department to GPSS. Enclosed are the special conditions that will be included with the grant award documents accompanying the grant awards made by the Department to GPSS for all of the Federal education programs it administers. GPSS will be permitted to draw down only up to one-fourth of its grant award amount every 90 days under each Department program, including programs under the Consolidated Grant and those not under the Consolidated Grant, unless it receives written approval from the Department to draw down a larger amount.

If you have any questions or require further assistance, please have your staff contact Christine Jackson, the primary contact for the *Management Improvement Team* within the Office of the Secretary, at (202) 260-2516. We are hopeful that GPSS will regain the momentum it had earlier achieved and wish Mr. Reyes every success in his new role. We look forward to continuing the partnership established with the GPSS staff to improve the delivery of Federal education services so that no child in Guam is left behind.

Sincerely,


Hudson La Force, III
Senior Counselor to the Secretary

cc: Johnny Rivera
Chairman, Guam Education Policy Board

Enclosure

Guam Public School System – Special Conditions

PREAMBLE: These special conditions are imposed on the Guam Public School System (GPSS) program grants issued by the U.S. Department of Education (Department) on or after the date of these special conditions. Additionally, the special conditions apply to funds granted by the Department to the GPSS that are still available for obligation on the date of these special conditions. These special conditions are applied to these program grants and funds in accordance with the Department's regulations governing "high risk" grantees in 34 CFR §80.12. The special conditions are imposed to help ensure that the GPSS awards are expended in accordance with applicable legal requirements and with appropriate fiscal accountability measures and management practices and controls.

I. EXPLANATION OF HIGH-RISK STATUS

Under the authority of the Education Department General Administrative Regulations (EDGAR), 34 CFR §80.12, the Department has determined that GPSS is a "high-risk" grantee for purposes of these grant awards because of problems in GPSS's fiscal and program accountability and related areas. Our conclusion is based on the following:

- A.** Until recently, the GPSS had not been in compliance with the Single Audit Act. Over a period of a number of years, GPSS submitted its single audits significantly late or not at all. While GPSS submitted single audits for FY 2001-2005, the audits have been qualified for major program compliance with reportable conditions that are material with questioned costs. In addition, the auditors declared the records of GPSS to be unauditible for FYs 1998, 1999, and 2000.
- B.** GPSS is currently instituting corrective actions to address the findings related to fiscal accountability of Department funds, but much work needs to be done by GPSS to fully address the Single Audit findings. The audit findings show underlying fiscal and management issues which raise concerns about GPSS's ability to deliver quality services to its students with Federal education funds.
- C.** GPSS has failed to perform required subrecipient monitoring. The 2005 single audit report cites GPSS for noncompliance with applicable subrecipient monitoring requirements. It was recommended that GPSS enforce internal controls over ensuring compliance with subrecipient monitoring, and assign a compliance monitor for each subrecipient. GPSS should also follow up with the compliance monitor to ensure that monitoring activities are performed and documented in accordance with applicable subrecipient monitoring requirements.
- D.** During 2006, there have been indicators of instability in the management of public education in Guam that have adversely affected the proper and effective use of Federal funds awarded to GPSS including but not limited to the Federal Consolidated Grant to Insular Areas (Consolidated Grant).

II. SPECIAL CONDITIONS

A. Reporting Requirements: Liquidations and Purpose of Expenditures

With respect to grant funds that GPSS receives on or after the date of these special conditions, GPSS will be permitted to draw down only up to one-fourth of its grant award amount every 90 days under each Department program, including the Consolidated Grant programs and other programs, such as the Grants to States and Early Intervention programs authorized by Parts B and C of the Individuals with Disabilities Education Act (IDEA), that are not part of the Consolidated Grant, unless it receives written approval from the Department to draw down a larger amount. This draw down restriction will remain in effect until GPSS has demonstrated to the Department's satisfaction the following: (1) that sufficient progress is being made in the implementation of programs carried out with these funds; (2) that the funds drawn down are being spent in a timely manner; and (3) that expenditures are supported with appropriate documentation and certifications. These expenditures and the documentation will also be subject to further monitoring, auditing, and review by Department staff.

The GPSS will also provide the following (see also section III B on submission of reports below):

1. A detailed quarterly report on the administration of each Federally funded program by GPSS, including programs, such as the Grants to States and Early Intervention programs authorized by Parts B and C of the Individuals with Disabilities Education Act (IDEA), that are not part of the Consolidated grant, the expenditures made by the GPSS in each program that will satisfy the accountability needs of the Department, and descriptions of the progress of each significant aspect of the program at the school and GPSS levels, including an annual monitoring plan. Expenditures (or liquidations) may be grouped by category (e.g., purchase of computers, professional development, etc.) but they must be in sufficient detail for the Department to match against the program application or spending plan, if applicable, and allow the Department to determine the allowability of the expenditures (or liquidation). The descriptions on progress must also provide enough detail on program activities to determine if sufficient progress is being made in the program.
2. GPSS will provide a detailed quarterly report on the status of management issues affecting the administration of federally funded programs, including programs that are not part of the Consolidated Grant. At a minimum, GPSS must report on:
 - a. implementation of its Fixed Assets Action Plan;
 - b. compliance with its procurement procedures;

- c. implementation of its reorganization plan and staffing of the Business Office with certified accountants;
 - d. implementation of a Financial Management Improvement System;
 - e. implementation of internal controls to ensure that programs are carried out in accordance with applications or plans submitted to, and approved by, the Department and with all other applicable Federal requirements, and that any changes in program implementation are made in accordance with Federal program requirements (including application amendments or other necessary actions);
 - f. implementation of subrecipient monitoring procedures and;
 - g. progress in resolving applicable audit findings on all matters affecting funds under these grants programs. This will include the resolution of all pending findings resulting from single audits, other audits or reviews, and from findings made by the Guam Office of Public Auditor (GOPA). If any audits by other federal agencies or other single or other audits or reviews of any other part of the Government of Guam contain findings on cross-cutting issues (e.g., procurement, property, financial management) affecting the administration of these program funds, or that cover funds under any of these grant programs, the GPSS shall also report such findings to the Department and to the GOPA, and outline the corrective actions to be taken.
3. GPSS's Superintendent of Education, in the capacity as the "certifying officer of GPSS" or another authorized official of GPSS, shall certify, under penalty of Federal law, to the accuracy and completeness of the reports, including verification that all of the expenditures are being made for authorized purposes under each of the programs.
4. GPSS must continue to post on its Internet web site (available to the general public) the budget, application, and reports mentioned above, and the information in the reports on the Internet must be updated on the site on a monthly basis.

GPSS shall submit to the Department its reports and certifications no later than thirty days after the end of each quarter. If a report is not timely or is not considered acceptable by the Department, the Department may take one or more remedies for that program, including, but not limited to: giving GPSS notice that it will not be given authority to draw down the remainder of available grant funds; the imposition of further conditions including withholding of all Federal education funds; the recovery of misspent funds; or the implementation of a contract with a third party to provide services.

The Department shall require these reports and will perform the functions of an oversight agent for both programmatic and management reports until such time as proper internal controls are in place and functioning for a period sufficient to assure the Department that they will continue to function and that they are effective in protecting Federal funds.

B. Single Audits

GPSS shall continue to conduct single audits and submit reports on an annual basis in a timely and complete manner. All single audits shall be completed and the reports published within nine months after the end of each fiscal year, as required by the Single Audit Act, as amended. If, for any reason, GPSS expects an audit or report to be delayed and late, it shall notify the Department's contact person of the reason and extent of the delay as soon as possible. Based on the information provided, the Department may take one or more remedies including, but not limited to, giving GPSS notice that it will not be given authority to draw down the remainder of available grant funds; the imposition of further conditions including withholding of all Federal education funds; recovery of misspent funds; or the implementation of a contract with a third party to provide services.

C. Prompt Access

GPSS shall promptly provide the Department or its representatives access to any requested staff, locations, records and information associated with the affected grant funds.

D. Failure to Comply with Conditions

In addition to the remedies described in Section II A and B above, if the Department determines that GPSS has not made substantial progress in meeting the objectives of the program, or has not met program requirements or the Special Conditions contained in paragraphs A-C above, then the Department may consider not continuing the grant or taking further enforcement action steps, or apply additional conditions such as the following:

1. GPSS would receive no further funds under this grant award or only on a reimbursement basis; and
2. GPSS would contract with a third party, who must be approved by the Department, to provide the services or financial management under this grant award. The third party would, at a minimum, assist in preparing the vouchers to be submitted to the Department for reimbursement, and would verify their accuracy and legitimacy as appropriate expenditures under applicable grant awards.

III. OTHER TERMS

A. Enforcement

If GPSS fails to meet any of the above special conditions, the Department is authorized to take other appropriate enforcement action. These terms and conditions do not preclude the Department from taking any otherwise authorized enforcement or other actions at any time.

B. Submission of Reports

All required reports submitted by GPSS to the Department under these special conditions should be submitted to:

Christine Jackson
400 Maryland Avenue, S.W.
FB-6, Room 7E230
Washington, DC 20202

C. Reconsideration and Modifications

At any time, GPSS may request reconsideration of the above special conditions by contacting the Department and stating reasons why GPSS believes particular conditions are no longer needed. Additionally, the Department may impose additional special conditions or modify these special conditions as appropriate. The Department will remove the special conditions at such time as GPSS meets, to the Department's satisfaction, the conditions mentioned above.

Dated: _____